



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Introduced	02/24/09	Bill No:	SCA 11 / SB 274
Tax:	Property	Author:	Dutton
Related Bills:	AB 321 (Niello)		

BILL SUMMARY

This bill would place a constitutional amendment before voters to allow base year value transfers to homes of greater value and extend the period to acquire a replacement home to three years.

ANALYSIS

CURRENT LAW

Under existing law, real property is generally reassessed to its current fair market value whenever there is a “change in ownership.” However, under certain circumstances, property owners may avoid reassessment of a particular property by way of either a change in ownership exclusion or a base year value transfer. (Article XIII A, Sec. 2; Revenue and Taxation Code Sections 60 - 69.5)

Section 69.5 of the Revenue and Taxation Code provides that persons over the age of 55 and severely and permanently disabled persons may transfer their base year value (i.e., their Proposition 13 assessment) of their principal residence if they purchase or newly construct another principal place of residence of equal or lesser value located in the same county if certain conditions are met. Additionally, seven counties (Alameda, Los Angeles, Orange, San Diego, San Mateo, Santa Clara, and Ventura) permit persons to transfer their base year values from homes located in other counties. This once-in-a-lifetime benefit allows seniors and those that become permanently and severely disabled to pay the same level of taxes if they choose to move and continue to enjoy relatively low property taxes by avoiding the reassessment provisions of Proposition 13 when purchasing or constructing a qualifying new home.

Section 69.5 details the provisions for qualifying for a base year value transfer. Relevant to this bill, one requirement is that the replacement dwelling must be of “equal or lesser value” than the original property. Determining whether a replacement dwelling meets the “equal or lesser value” requirement depends on when the replacement dwelling is purchased. Generally, the purchase price of each home is used as the basis of the value comparison test. However, since the replacement dwelling need not be purchased for up to 2 years after the sale of the original property, the law allows for an inflation adjustment as follows:

- If the replacement dwelling is purchased prior to the sale of the original property, then its value must be 100% of the value of the original property or less.
- If the replacement dwelling is purchased within the first year of the sale of the original property, then its value can be up to 105% of the value of the original property.

- If the replacement dwelling is purchased within the second year of the sale of the original property, then its value can be up to 110% of the value of the original property.

PROPOSED LAW

Homes of Greater Value. This Senate Constitutional Amendment, if approved by voters, would amend subdivision (a) of Section 2 of Article XIII A of the California Constitution to provide for the transfer of a base year value to a replacement dwelling that is of greater value. The base year value of the replacement dwelling would be calculated by adding the difference between the market value of the original property and the market value of the replacement dwelling to the base year value of the original property. SB 274 would amend the implementing provisions into Section 69.5 of the Revenue and Taxation Code.

Three Years. This Senate Constitutional Amendment would also extend the period of time during which a person eligible for a base year value transfer has to purchase or construct a replacement dwelling from 2 years to 3 years of the sale of the original property. The value of the replacement dwelling if purchased within the third year of the sale of the original property could be up to 115% of the value of the original property for purposes of meeting the “equal or lesser value” requirement.

IN GENERAL

Under Proposition 13, property is reassessed to its current market value when a change in ownership occurs. Generally, the sales price of a property is used to set the property’s assessed value and annual increases to that value are limited to the rate of inflation, not to exceed 2%.

Base Year Values. At the time of the ownership change, the value of the property for property tax purposes is redetermined based on current market value. The value initially established is referred to as the “base year value.” Thereafter, the base year value is subject to annual increases for inflation, but at no more than 2% per year. This value is referred to as the “factored base year value.” This system, established by Proposition 13, results in substantial property tax savings for long-term property owners.

Base Year Value Transfers. Voters have approved three constitutional amendments permitting persons to “transfer” their Proposition 13 base year value from one home to another that is of equal or lesser value. The base year value transfer avoids reassessment of the newly purchased or newly constructed home to its fair market value. Homeowners may also newly construct a home on land that they purchase.

- Proposition 60, approved by the voters on November 4, 1986, amended Section 2 of Article XIII A of the California Constitution to allow persons over the age of 55 to sell a principal place of residence and transfer its base year value to a replacement principal place of residence within the same county.
- Proposition 90, approved by the voters on November 8, 1988, extended these provisions to a replacement residence located in another county on a county optional basis. Currently seven counties accept transfers from outside their county.
- Proposition 110, approved by the voters on June 5, 1990, extended these provisions to allow severely and permanently disabled persons of any age to sell a principal

place of residence and transfer its base year value to a replacement principal place of residence.

Section 69.5 of the Revenue and Taxation Code provides the statutory implementation for these propositions.

BACKGROUND

SCA 24(Dutton) and SB 1610 (Dutton) from 2008 are similar to these bills. Neither bill passed out of Senate Revenue and Taxation Committee.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author to remove an impediment to persons 55 years and older from moving to a home that may better suit their needs due to the property tax consequences.
2. **Base year value transfers extend Proposition 13 protections.** A “base year value transfer” allows eligible homeowners to preserve the Proposition 13 protected value of their prior residence by transferring it to a new residence. If a home of equal or lesser value is purchased, it essentially allows a homeowner to continue to pay the same basic amount of property taxes.
3. **Under current law base year value transfers are not permitted if a person moves to a home that costs more.** Because of the property tax implications, some persons who would like to purchase a new home may choose not to because of the resulting increase in property taxes. Generally, the property taxes on the new home would be 1% of its current market value. With this constitutional amendment, if a person buys a new home that is worth \$75,000 more than the home they sold, then they would pay the same amount they were previously paying plus an additional \$750 (\$75,000 x 1% tax rate). Thus, for persons 55 years and older, this bill would limit the increase in property taxes when a home of greater value is purchased.
4. **How would the base year value transfer be calculated when a home of greater value is purchased?** The value of the replacement dwelling for property tax purposes would be calculated by adding the base year value of the original home to the difference in market values between the two homes. Thus, the new “combined” base year value would be:

Assessed value = Base year value transfer + Difference in market value

For example. With this bill, the taxes on a home that is of greater value are dependent on the facts of each situation. The following table shows the possible tax savings if a person sells a home for \$500,000 and buys a new home for \$600,000. Without a base year value transfer, the taxes on the home at the basic 1% tax rate would be \$6,000.

Assessed Value of Original Property	Market Value Difference Between Homes	Assessed Value of Replacement Dwelling with Base Year Value Transfer	Taxes Under Current Law	Taxes With Base Year Value Transfer	Tax Savings

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100,000	100,000	200,000	6,000	2,000	4,000
200,000	100,000	300,000	6,000	3,000	3,000
300,000	100,000	400,000	6,000	4,000	2,000
400,000	100,000	500,000	6,000	5,000	1,000

5. **Comparability.** In comparing two homes, current law is based solely on the market value of the two homes. Other elements of “comparability,” such as size or quality, are not taken into account. While a person may “downsize” in terms of square footage, it is not necessarily less expensive. For instance, a smaller condo in an urban area may cost more than a larger home in a suburban area. Moreover, two homes that are comparable in terms of size and quality will not be comparable if the new home is located in a more expensive location.

COST ESTIMATE

The Board would incur some minor absorbable costs in informing local county assessors, the public, and staff of the law changes.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

These bills would allow base year value transfers when the replacement property is of a greater value than the original property. The new “combined” base year value would include the assessed value of the original property plus the difference between the market value of the original property and the market value of the replacement property. What this does, in effect, is make the dollar difference between the market value of the replacement property and its new “combined” base year value equal to the difference between the market value of the original property and the assessed value of the original property.

The median home price in December 2008, according to the California Association of Realtors, was \$281,180, or 42 percent lower than the December 2007 median home price of \$480,820. Due to the downturn in the California housing market, there are instances where the current factored base year value of a home will exceed its current market value, especially for those residences that were acquired in the last five years. A homeowner in this situation would not claim a base year value transfer since there would be no property tax savings in doing so. We estimate that when there is a property tax benefit, and the base year value transfer is claimed, the estimated amount of assessed value difference per home would be \$100,000.

Based on an extensive analysis of electronic data files containing county information on various types of base year value transfers, we estimate that over the last 5 years approximately 6,900 base year value transfers were granted annually.

Based on information gathered from the 2000 U.S. Census Bureau, we estimate that persons aged 55 years and older made up 18% of all owner-occupied housing in California.

We do not know the number of eligible homeowners that may decide to purchase a new home and exercise their right under this bill to file for a base year value transfer.

We assume that this bill would increase by 100% the annual number of eligible base year value transfers granted, which would mean 6,900 more claims. More claims would

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be made because a person that buys a new home that is worth more than his or her former home is now eligible. (Without this bill, that person would pay property taxes based on the new home's current market value.)

The revenue impact of this bill would be as follows:

Additional Base Year Value Transfers	Average Revenue Loss Per Transfer	Estimated Revenue Impact
6,900	\$1,000	\$6,900,000

In the case of a replacement property of equal or lesser value, this bill requires that the amount of the full cash value does not exceed 115% of the amount of the full cash value of the original property if purchased or newly constructed within three years of the sale of the original property. This is an increase of 5% over the current requirement of 110% for replacement dwellings purchased or newly constructed within two years.

For each additional property that qualifies because a replacement property was purchased between the second and third year, we can estimate the average affected value of one property as it relates to this change as:

$$\$100,000 \times 1\% \text{ or } \$1,000$$

We estimate that the proposed change to extend the period of time from two years to three years will have a minimal revenue impact.

REVENUE SUMMARY

Homes of Greater Value. This bill would result in a revenue loss of \$6.9 million annually for extending the base year value transfer to a replacement dwelling of greater value. While claims of this nature are allowed only once, this amount would grow over time as the number of qualifying claimants increases each year due to an aging population.

Three Years. There would be a minimal revenue impact due to increasing the period of time for acquiring or constructing a replacement dwelling from two to three years.

Qualifying Remarks. For a claimant to be eligible for the proposed property tax relief for a replacement dwelling, there must be a transfer of the original property by way of a change in ownership, subjecting that original property to reappraisal at its current fair market value. In other words, the person's former home must be reassessed to its current market value for that person to qualify for the base year value transfer. Thus, the property tax revenue from the former home will generally increase.

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